

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

### **I. DISPUTE**

1. a. Whether there should be additional reimbursement for date of service 02/23/01 & 06/08/01?  
b. The request was received on 02/20/02.

### **II. EXHIBITS**

1. Requestor, Exhibit 1:
  - a. TWCC-60 and Letter Requesting Dispute Resolution dated 04/11/02
  - b. HCFAs
  - c. EOBs
  - d. Medical Records
  - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 2:
  - a. TWCC-60
  - b. HCFAs
  - c. Audit summaries/EOBs
  - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g)(3), the Division forwarded a copy of the requestor's 14-day response to the insurance carrier on 05/01/02. Per Rule 133.307 (g)(4), the carrier representative signed for the copy on 05/05/02. The only response from the insurance carrier was received in the Division on 02/22/02. The findings and decision will be based on all documentation submitted by both parties.
4. Notice of Medical Dispute is reflected as Exhibit #3 of the Commission's case file.

### **III. PARTIES' POSITIONS**

1. Requestor: letter dated 04/11/02  
"...we strongly feel and believe that we followed TWCC Guidelines in order to resolve this issue directly with the insurance carrier but did not succeed...there is no TWCC Medical Fee Guideline for this particular DME item...the insurance carrier partially paid us 2 totally difference[sic] amounts on 2 separate occasions for the same type of brace."
2. Respondent: no position submitted

#### IV. FINDINGS

1. Based on Commission Rule 133.307(d)(1&2), the only dates of service eligible for review are 02/23/01 and 06/08/01.
2. The carrier's EOBs have the denial "F – THE CHARGE FOR THIS PROCEDURE EXCEEDS THE FEE SCHEDULE OR USUAL AND CUSTOMARY ALLOWANCE."
3. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	BILLED	PAID	EOB Denial Code	MARS	REFERENCE	RATIONALE:
02/23/01	E1399	\$499.00	\$100.97	F	DOP	Texas Workers' Compensation Act & Rules, Sec. 413.011 (d), Rule 133.304 (i); MFG, GI (III)	Due to the fact there is no current fee guideline for the DME provided, the Medical Review Division has to determine based on the parties' submission of information, what represents fair and reasonable reimbursement. The MFG, GI (III) states, "(DOP) in the ... (MAR) column indicates that the value of this service shall be determined by written documentation attached to or included in the bill." This places the burden on the provider to show what is fair and reasonable reimbursement. The provider has submitted EOBs to show a higher rate of reimbursement. However, an analysis of recent State Office of Administrative Hearings decisions show minimal weight is given to EOBs when used to document "fair and reasonable" reimbursement. The willingness of some carrier's to reimburse at or near the billed amount does not necessary document that the billed amount is fair and reasonable and does not show how effective medical cost control is achieved, a criteria identified in Sec. 413.011 (d). The carrier has reimbursed a different amount for each date of service in dispute and offers no explanation in their response or EOB. Although the provider's EOBs are insufficient to document that amount of reimbursement requested is "fair and reasonable", additional reimbursement of <b>\$46.52</b> is recommended to provide consistent reimbursement per Rule 133.304 (i)(1).
06/08/01	E1399	\$499.00	\$54.45	F	DOP		
<b>Totals</b>		\$998.00	\$155.42				The Requestor is entitled to additional reimbursement of \$46.52.

#### V. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$46.52 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 1<sup>st</sup> day of July, 2002.

Larry Beckham  
Medical Dispute Resolution Officer  
Medical Review Division

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.